



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board
Pete T. Cenarrusa, Secretary of State
Alan G. Lance, Attorney General
J. D. Williams, State Controller
Marilyn Howard, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

FINAL MINUTES REGULAR LAND BOARD MEETING March 9, 1999 9:00 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on March 9, 1999 in Boise, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa
Honorable State Controller J.D. Williams
Honorable Attorney General Alan G. Lance
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Stanley F. Hamilton

Prior to the consent agenda, Director Hamilton requested withdrawal of the Executive Session, agenda item #14 regarding proposed commercial property land exchange policy and procedures. There were no objections.

• **CONSENT AGENDA**

Director Hamilton provided background information on the consent agenda items.

The motion was made by Secretary of State Cenarrusa and seconded by Attorney General Lance to approve the consent agenda in its entirety. The motion carried on a vote of 5-0.

1. The following official transactions were approved:

- A. Bureau of Minerals for January 1999
- B. Bureau of Range Management and Surface Leasing for Cropland, Grazing, Cottage Site, Miscellaneous and Submerged Land Leases for January 1999
- C. Bureau of Real Estate, Easement Section for January 1999
- D. Bureau of Real Estate, Land Sale Section for January, 1999
- E. Timber Sales for the period January 23, 1999 through February 19, 1999

2. The following timber sales, staffed by Ron Litz, Chief, Bureau of Forest Management were approved:

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|-------------------------|-----------|-----------|
| A. Bear Wallow | CR-1-0292 | 1,400 MBF |
| B. Spacewood Commercial | CR-4-0683 | 2,270 MBF |
| C. Twogood Pieces | CR-4-0686 | 1,095 MBF |
| D. Bronson Commercial | CR-4-0689 | 3,110 MBF |
| E. French Eagle | CR-5-0081 | 3,865 MBF |

3. The Friends of the Bishop's House amended lease, staffed by Bryce Taylor, Bureau Chief, Range Management/Surface Leasing, was approved.

4. **The Timber License Plate Fee recommendations, staffed by Betty J. Munis, Director, Idaho Forest Products Commission, were approved.**
5. **The proposed surplus sale of Marsing Job Corps site – owned by Idaho Department of Fish and Game, staffed by Perry Whittaker, Chief, Bureau of Real Estate, was approved.**
6. **The Disclaimer of Interest request from Shah Afshar for .37 of an acre of accretion land on the Boise River near Eagle, staffed by Perry Whittaker, Chief, Bureau of Real Estate, was approved.**

REGULAR AGENDA

7. Director's Report, presented by Stanley F. Hamilton, Director, Department of Lands

Director Hamilton provided the Land Board various charts and graphs showing the current standing of the various endowments.

- A. Summary of the fiscal 1999 Principal Fund Balances and Revenue Composition.
- B. Graphs showing Permanent Endowment Contributions, Income Distribution, Cumulative Increase to Permanent Endowment and Cumulative Distribution were broken down into the following categories:
 - a. Public Schools
 - b. Agricultural College
 - c. Charitable Institutions
 - d. Normal School
 - e. Penitentiary
 - f. School of Science
 - g. Hospital South
 - h. University of Idaho
- C. Graphs showing the Income Distribution and Cumulative Distribution for the Permanent Building Fund
- D. Graphs showing Cumulative Total Permanent Endowment for the categories (a. through f) as listed above.

State Controller Williams asked with public schools, all the income that is received from activities of the Department goes into the Public School Income Fund that is appropriated by the Legislature. He asked if this was the same with all the other funds. Director Hamilton said to set the public buildings aside because there is no permanent account. The other eight accounts, money from timber, land sales, and mineral royalty go directly to the permanent account and the interest is distributed there. Land leases, interest from timber sales, interest from land sales and miscellaneous revenues go directly to the beneficiaries. This will change on July 2000. All of the revenue will go into the Earnings Reserve Account and the Land Board will determine distribution with oversight by the Legislature.

No action was required on this agenda item.

8. Briefing on Endowment Investment program, presented by Charles G. Saums, Investment Manager, Endowment Fund Investment Board

Mr. Saums provided the Land Board with information on the Endowment Investment program. He stated there were some exciting things going on with the endowments currently.

Mr. Saums said the bill for advancing and broadening the spectrum of the investments is on the Governor's desk. Governor Kempthorne stated that he had the bill with him. Mr. Saums stated that at

their last board meeting, there was considerable discussion as to how to change the investment policy to best handle these new investments.

Mr. Saums stated that several of the board members are on other endowments and their concern was – how do we make a change in investment policy without knowing what the distribution policy is going to be. It was decided that the policy would be amended to allow moving from what is called “equity substitutes” into and S&P 500 mutual fund. This will give full movement of the broad market. This will be done over a period of time. The Endowment Board is looking at a fifteen (15) month timeframe to get 10% of the portfolio into this equity fund. That is roughly 85 million dollars.

Mr. Saums said that Representative Deal brought up the use of the endowment staff in investing monies for other state agencies. The Endowment Board felt it would be necessary to have a policy in directing this type of activity. He stated that the board does manage monies for the State Insurance Fund. This is by statute and it seems to be working quite well. Other agencies have tried to get legislation through. The policy that the Endowment Board adapted was, if they are permanent funds and not operating cash, they would accept those. He stated that the Endowment Board was not actively seeking, but would accept those to manage. He said that the Endowment Board has a broader investment authority than does the treasurer. With funds that are 10 million or more, the board feels they can get a return that will help keep taxes or fees down.

Mr. Saums said that he would visit with the Land Board, probably once a quarter, to apprise the board as to what is happening at the Investment Board meetings.

Attorney General Lance said as a result of the briefing on HJR 6 and HJR8 and the implementation, there has been some concern expressed that our real estate may not be the best investment. He said some concerns expressed to him were that we may sell all of our timber holdings as well as the other real estate holdings and place this money in the stock market. He said he assured those individuals that the timber lands and other lands are part of the portfolio, no member of the board has any preconceived idea to selling off all of the grazing or timber lands.

State Controller Williams provided information regarding what he and Mr. Ron Crane, State Treasurer, had been doing regarding implementation. He said they would propose that each Land Board member appoint either themselves or a designee to represent them on an implementation task force.

The task force would select two working groups. One group on the investment side to develop the various strategies, distribution policies etc. and present information back to the task force. He suggested that Mr. Saums be a member on the investment side and at least one member of the investment board. He also suggested that a member or designee from the investment board should represent the task force. He suggested that Mr. Doug Dorn and Mr. Robert Maynard should participate.

The other working group would work more with the physical assets – land assets of the trust, developing a check list of various things and report back to the task force. He felt this group should consist of a forest economist, perhaps a legislator, and someone who knows about commercial real estate (leasing and development).

The two working groups would make recommendations to the task force. He suggested that these recommendations would then be brought back to the Land Board by early fall for consideration.

Governor Kempthorne acknowledged Governor Batt's efforts in moving this issue forward. He also acknowledged the work of others that contributed in this effort. He stated that there were many that deserved a “great deal of thanks.” He stated that the ultimate objective is that we are able to generate additional revenue to help the children of Idaho.

Governor Kempthorne said Senate Bill 1107 arrived at his office early that morning. This simply accelerates the date of implementation. This has passed both the House and the Senate. Governor

Kempthorne signed the bill at the Land Board meeting. He said this is the instrument that allows the state to go forward.

Governor Kempthorne thanked Mr. Saums for his involvement and said he was looking forward to working with him and his outstanding team.

No action was required on this agenda item.

9. Disclaimer of Interest – Peter and Paul McCabe Brothers LLC for 59 acres of accretion land along the Snake River in Payette County, presented by Perry Whittaker, Chief, Bureau of Real Estate

Director Hamilton introduced this agenda item. He informed the Land Board that Peter and Paul McCabe were in the audience and have indicated that they would like to address the Board.

Perry Whittaker provided the Land Board with the background information on this disclaimer. He informed the Land Board that there is a question concerning the location of the boundary between the States of Oregon and Idaho. Most current maps and records show the boundary following the middle of the Snake River where it is currently located which is $\frac{1}{4}$ to $\frac{1}{2}$ mile to the west of the west boundary of this disclaimer request. Other records indicate that the west boundary of this disclaimer of interest request, which is in the former channel of the river, is considered to be the state boundary.

The McCabes are in the process of acquiring a disclaimer of interest from the State of Oregon for the west side of this former river channel. Authorities from both states are aware of the boundary question and have been working on it for a few years.

Director Hamilton stated there were two issues before the Land Board. The first issue is the simple issue of the disclaimer and the second issue would be direction from the Land Board to start the interstate compact process for devising the actual location of the state boundary.

The department recommended that a disclaimer of interest be issued for this parcel of accretion land totaling 59 acres of the former bed of the Snake River. The state no longer has any substantive claim to this property. This disclaimer of interest will be issued contingent upon the applicant granting to the state a disclaimer of interest of the current riverbed located adjacent to Lot 5 in Section 5. The recommended fee is \$600.00.

The Attorney General made the motion to accept the recommendation of the department for the disclaimer of interest. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

The Attorney General made the motion that the department be directed to begin the process of the interstate compact with the state of Oregon, relative to the determination of the state boundary. State Controller Williams seconded the motion. The motion carried on a vote of 5-0.

10. Float Homes – Audience with the Board - Introduced by Bryce Taylor, Bureau Chief, Range Management/Surface Leasing and Presented by Denny Davis, Representative of the Float Home Owners Association

Director Hamilton introduced the issue relating to the Scenic Bay Marina floathomes. Bryce Taylor provided the background information. Mr. Denny Davis, representing the float home owners was present to speak to this matter and Mr. Steve Fender, attorney for Scenic Bay Marina was also present and would like to address the Board. There was considerable discussion with both Mr. Davis and Mr. Fender regarding the issues at Scenic Bay Marina.

Attorney General Lance suggested that a set period of time be established for questions to be answered such as – how arrearages will be paid. He also suggested that both parties work together and then come back to the Land Board. Governor Kempthorne suggested that the parties bring back a plan to bring all conditions up to standard. He felt that safety, health and esthetic issues need to be addressed.

State Controller Williams said, with these additional problems, if the proposed rental rates were greater than those in the area, he would not be able to support it. He said he felt we should have a policy on our public trust lands, which were given to us at statehood for all the people of Idaho, that anyone who rents or re-rents those properties should treat the people of Idaho fairly.

Superintendent Howard said that she supported the Governor on his concerns. She said some of the information from the owners' shows a history of promises made and never followed through on. This is not just a dollar issue.

Mr. Fender requested 60 days to return with a plan. Superintendent Howard felt there should be a report on this issue at the April Land Board meeting. Mr. Fender stated that he had to work with other parties over whom he had no control. He felt 30 days was a short window.

Attorney General Lance said he would like to know in 30 days if the two parties would be able to work something out relative to the issue of \$12,000 owing to the citizens of the state of Idaho. Governor Kempthorne asked if Mr. Taylor would be able to affirm to the Land Board at the April meeting whether or not good faith and real progress was being made on this issue. The Land Board would rely on the judgement of the department. This would allow 60 days for Mr. Fender and Mr. Davis to return to the Land Board with their proposal.

State Controller Williams asked input from Mr. Davis. Mr. Davis stated that he had no problem with the 60 days requested by Mr. Fender. He felt Mr. Fender had a valid point regarding the practicality of reaching terms with the other parties. He stated that ultimately, Scenic Bay and the float home owners were going to have to work out a solution. Mr. Davis said he could commit to the float home owners making a good faith effort to work this out. He said if they were unable to come to terms with some of the issues, the float home owners might request the Land Board to intercede. He asked if it were fair to charge the homeowners the cost of accrued maintenance and mismanagement? Is it fair to charge the homeowners because the owner of the Marina paid too much for the property? Mr. Davis said they did not want to see the Marina closed down.

Attorney General Lance made a unanimous consent request that this agenda item be held for one month, until the April meeting, at which time it will be reviewed and the Land Board will decide whether or not to take action, or if appropriate progress has been made. There were no objections, and it was so ordered.

State Controller Williams made a unanimous consent request that Department staff be asked to look at the proposed language and if the Land Board wants to put in place a policy on float home rates, that they have that so it can be considered at the April meeting also. Governor Kempthorne suggested that in the language of the policy those standards of health, safety etc. be maintained. There were no objections, and it was so ordered.

11. Legislative update, presented by Stanley F. Hamilton, Director, Department of Lands

Director Hamilton provided the Land Board with an overview of bills that are being tracked by the Department.

- HB 84 – Mine license tax, distribution. – was signed into law. The Department will be charged with the responsibility for overseeing mine land reclamation for old abandoned mines that have been out of the system for years. Some of them are hazardous.
- HB 196 – as amended – Motorcycle/snowmobile/ATV, drivers license. This would allow a person too young to obtain a drivers license to drive motorcycles, ATV's, snowmobiles on paved roads on state

and federal lands. The Department expressed concerns during the hearing that this would put underage unlicensed drivers head-to-head with logging trucks and other vehicles on state and federal lands. This would not allow law enforcement officers to regulate the type of activities that might go on there. This has passed the House and will be sent to the Senate.

- HB 250 – Rights-of-way – Highway districts are looking for some resolution on rights-of-way. Department staff testified before those committees indicating that the Board does not concede any responsibility or any ownership interest in endowment lands unless there is a formal document in place – such as an easement. The Department said that they would sit down with the districts and try to work out some kind of resolution on the issue of road closures and whether or not the County has jurisdiction to do certain things on endowment lands.
- HCR 008 – Federal Lands Task Force, report was adopted. The Land Board needs to appoint four to seven people who will be the working group. The supplemental was approved for \$50,000 and \$100,000 for next year. It is in the budget bill and that bill should be printed soon. An RFP is being prepared that would bring in the coordinator that would work for this working group and the board to take the next step.
- SB 1014 – Approp, Lands Dept – passed early in the session
- SB 1084 – State Lands, leasing periods – (long-term leasing) This allows the board to negotiate with government agencies for up to 25 years. It is proceeding forward.
- SB 1104 – Endowment land/lease/additional parcels. This would add five parcels around the state to the bill. It is proceeding forward.
- SB 1107 – Endowment fund/1998 law/effect date. Governor Kempthorne signed this bill at the meeting.
- SB 1137 – Hwy/right-of-way, closure. This bill has been held in committee at the request of the Department, working with the highway districts.
- SB 1150 – State land, trespass, penalty- The language was amended and it is currently being discussed with counsel. At this point the Department may ask that the bill be vetoed because as the bill was amended, it is not a helpful bill and may not accomplish what needs to be done.

-- Governor Kempthorne asked if 1150a was initiated by the Department. Director Hamilton said the Department and the Land Board initiated. It was basically rewritten by the Senate Resources Committee and then introduced. When it went to the House, it was amended again.

- SB 1153 – Land Board exchange – Similar lands bill – Was held in committee by the Senate Resource Committee.
- SB 1230 – Land use planning. This bill would give the counties tremendous authority over all state agencies in the land use planning arena. It required extensive activities by the state agencies when doing any planning or activities in the county. It was held in Committee.
- SJM 101 – Douglas fir bark beetle infestation. This is moving fairly well.

Director Hamilton stated that the budget bill would be printed soon. A good budget report was received from JFAC. They took some steps toward helping in looking toward the restructuring.

• **INFORMATION AGENDA**

Director Hamilton briefed the Land Board on the Information agenda items. No Land Board action is required on the information agenda.

12. Timber sale activity report
13. Interest rate update

Attorney General Lance made the motion to resolve into Executive Session. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

- **EXECUTIVE SESSION**

As previously noted, agenda item #14 was withdrawn from the agenda.

14. Discussion of proposed commercial property land exchange policy and procedures, presented by Stanley F. Hamilton, Director, Department of Lands and Idaho Department of Lands Staff
15. Discussion regarding decision of Idaho Forest Industries, Inc. v. Hayden Lake Watershed Improvement Dist, et al., Kootenai County Civil No. 59770, presented by David Barber, Deputy Attorney General, Natural Resources Division

Following the discussion of agenda item #15, Attorney General Lance made the motion to return to regular session. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

Attorney General Lance made the motion to appeal the court's decision as reflected in agenda item #15. State Controller Williams seconded the motion. The motion carried on a vote of 5-0.

There being no further business to come before the Board, the meeting adjourned at 11:00 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Pete T. Cenarrusa
Pete T. Cenarrusa
Secretary of State

/s/ Stanley F. Hamilton
Stanley F. Hamilton
Director

<p>The above-listed final minutes were approved by the State Board of Land Commissioners at the April 13, 1999 regular Land Board meeting.</p>
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